

PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY

Name DASH, LAWRENCE E.
 (Last) (First) (Initial)

Prisoner Number F-49769

Institutional Address FOLSOM STATE PRISON P.O. Box 715071
REHESBA, CA 95671

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

LAWRENCE E. DASH

(Enter the full name of plaintiff in this action.)

vs.

MATTHEW C. KRAMER
WARDEN
FOLSOM STATE PRISON

(Enter the full name of respondent(s) or jailor in this action)

08

Case No. 0964
 (To be provided by the clerk of court)

**PETITION FOR A WRIT
 OF HABEAS CORPUS**

(PR)

E-filing

Read Comments Carefully Before Filling In

When and Where to File

You should file in the Northern District if you were convicted and sentenced in one of these counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma. You should also file in this district if you are challenging the manner in which your sentence is being executed, such as loss of good time credits, and you are confined in one of these counties. Habeas L.R. 2254-3(a).

If you are challenging your conviction or sentence and you were not convicted and sentenced in one of the above-named fifteen counties, your petition will likely be transferred to the United States District Court for the district in which the state court that convicted and sentenced you is located. If you are challenging the execution of your sentence and you are not in prison in one of these counties, your petition will likely be transferred to the district court for the district that includes the institution where you are confined. Habeas L.R. 2254-3(b).

Who to Name as Respondent

You must name the person in whose actual custody you are. This usually means the Warden or jailor. Do not name the State of California, a city, a county or the superior court of the county in which you are imprisoned or by whom you were convicted and sentenced. These are not proper respondents.

If you are not presently in custody pursuant to the state judgment against which you seek relief but may be subject to such custody in the future (e.g., detainees), you must name the person in whose custody you are now and the Attorney General of the state in which the judgment you seek to attack was entered.

A. INFORMATION ABOUT YOUR CONVICTION AND SENTENCE

1. What sentence are you challenging in this petition?

- (a) Name and location of court that imposed sentence (for example; Alameda County Superior Court, Oakland):

SAN FRANCISCO SUPERIOR COURT - SAN FRANCISCO COUNTY

Court

Location

- (b) Case number, if known

10-28-2006

- (c) Date and terms of sentence 3yr - 4yr, 1yr CONSECUTIVE

- (d) Are you now in custody serving this term? (Custody means being in jail, on parole or probation, etc.) Yes X No

Where?

Name of Institution:

FOLSOM STATE PRISON

Address:

P.O. BOX 715071, REPEBA, CA 95671

2. For what crime were you given this sentence? (If your petition challenges a sentence for more than one crime, list each crime separately using Penal Code numbers if known. If you are challenging more than one sentence, you should file a different petition for each sentence.)

ROBBERY 2ND P212.5(c) 3yr TERM CASE# 197706

ROBBERY P212.5(c) PC 2933.1 - 4yr TERM

1yr ENHANCEMENT - ALL (3 TERM) RUN CONSECUTIVE.

3. Did you have any of the following?

Arraignment:

Yes ☒ No ☐

Preliminary Hearing:

Yes ☒ No ☐

Motion to Suppress:

Yes ☐ No ☒

4. How did you plead?

Guilty ☒ Not Guilty ☐ Nolo Contendere ☐

Any other plea (specify) PLEA GUILTY TO 3 CONSECUTIVE TERMS

5. If you went to trial, what kind of trial did you have?

Jury ☐ Judge alone ☐ Judge alone on a transcript ☐

6. Did you testify at your trial?

Yes ☐ No ☒

7. Did you have an attorney at the following proceedings:

(a) Arraignment

Yes ☒ No ☐

(b) Preliminary hearing

Yes ☒ No ☐

(c) Time of plea

Yes ☒ No ☐

(d) Trial

Yes ☐ No ☒

(e) Sentencing

Yes ☒ No ☐

(f) Appeal

Yes ☐ No ☒

(g) Other post-conviction proceeding

Yes ☒ No ☐

8. Did you appeal your conviction?

Yes ☐ No ☒

(a) If you did, to what court(s) did you appeal?

Court of Appeal Yes ☐ No ☐

Year: _____ Result: _____

Supreme Court of California Yes ☐ No ☐

Year: _____ Result: _____

Any other court Yes ☐ No ☐

Year: _____ Result: _____

(b) If you appealed, were the grounds the same as those that you are raising in this

petition? Yes _____ No _____

(c) Was there an opinion? Yes _____ No _____

(d) Did you seek permission to file a late appeal under Rule 31(a)?

Yes _____ No ☒ _____

If you did, give the name of the court and the result:

9. Other than appeals, have you previously filed any petitions, applications or motions with respect to this conviction in any court, state or federal? Yes _____ No ☒ _____

[Note: If you previously filed a petition for a writ of habeas corpus in federal court that challenged the same conviction you are challenging now and if that petition was denied or dismissed with prejudice, you must first file a motion in the United States Court of Appeals for the Ninth Circuit for an order authorizing the district court to consider this petition. You may not file a second or subsequent federal habeas petition without first obtaining such an order from the Ninth Circuit. 28 U.S.C. §§ 2244(b).]

(a) If you sought relief in any proceeding other than an appeal, answer the following questions for each proceeding. Attach extra paper if you need more space.

I. Name of Court: _____

Type of Proceeding: _____

Grounds raised (Be brief but specific):

a. _____

b. _____

c. _____

d. _____

Result: _____ Date of Result: _____

II. Name of Court: _____

Type of Proceeding: _____

Grounds raised (Be brief but specific):

1 a. _____
 2 b. _____
 3 c. _____
 4 d. _____
 5 Result: _____ Date of Result: _____

6 III. Name of Court: _____
 7 Type of Proceeding: _____
 8 Grounds raised (Be brief but specific):
 9 a. _____
 10 b. _____
 11 c. _____
 12 d. _____
 13 Result: _____ Date of Result: _____

14 IV. Name of Court: _____
 15 Type of Proceeding: _____
 16 Grounds raised (Be brief but specific):
 17 a. _____
 18 b. _____
 19 c. _____
 20 d. _____
 21 Result: _____ Date of Result: _____

22 (b) Is any petition, appeal or other post-conviction proceeding now pending in any court?
 23 Yes _____ No ☒

24 Name and location of court: _____

25 B. GROUNDS FOR RELIEF

26 State briefly every reason that you believe you are being confined unlawfully. Give facts to
 27 support each claim. For example, what legal right or privilege were you denied? What happened?
 28 Who made the error? Avoid legal arguments with numerous case citations. Attach extra paper if you

1 need more space. Answer the same questions for each claim.

2 [Note: You must present ALL your claims in your first federal habeas petition. Subsequent
3 petitions may be dismissed without review on the merits. 28 U.S.C. §§ 2244(b); McCleskey v. Zant,
4 499 U.S. 467, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991).]

5 Claim One: 3 YR CONSECUTIVE TERM FOR ROBBERY 212.
6 TO RUN CONSECUTIVE TO 2ND AND 3RD TERMS.

7 Supporting Facts: A CONSECUTIVE SENTENCE CARRIES
8 1/3 OF THE MID-TERM OF THAT CHARGE.

9 TERMS FOR ROBBERY 212. 2 YR - 3^{MID} YR - 5 YR.
10 FIRST SENTENCE SHOULD HAVE BEEN COMPLETED

11 Claim Two: 4 YR CONSECUTIVE TERM FOR ROBBERY 212.
12 TO RUN CONSECUTIVE OF 1ST AND 3RD TERMS.

13 Supporting Facts: THERE IS NO STATE 4 YR TERM FOR
14 ROBBERY 212. 1/3 CONSECUTIVE RULING FOR
15 MID-TERM WAS NOT GIVEN.

16 CONSECUTIVE MEANS CONSECUTIVE.

17 Claim Three: 1 YR CONSECUTIVE ENHANCEMENT TERM.
18 RELEASE DATE: 8-27-2021 IS WRONG.

19 Supporting Facts: CDCR TOOK 3 CONSECUTIVE TERMS
20 AND CAME UP WITH 1-8 YR SENTENCE AT 85%
21 TO SERVE. IM SERVING 85% OF A 3 YR TERM THAT
22 IS OVER. ENHANCEMENTS ARE NOT 85%

23 If any of these grounds was not previously presented to any other court, state briefly which
24 grounds were not presented and why:

25 CDCR TURNED 3 CONSECUTIVE TERMS INTO ONE
26 8 YR TERM. THE STATE COURT GAVE ME 3 TERMS
27 TO RUN CONSECUTIVE OF EACH OTHER. NOT (1)
28 SINGLE TERM. CDCR TOOK THE CONSECUTIVE OFF.

1 List, by name and citation only, any cases that you think are close factually to yours so that they
 2 are an example of the error you believe occurred in your case. Do not discuss the holding or reasoning
 3 of these cases:

4 PEN C § 669; PEOPLE VS. CARR (1936) 6 2ND
 5 227, 57 P2d 489.

6
 7 Do you have an attorney for this petition?

Yes _____ No ☒

8 If you do, give the name and address of your attorney:

9
 10 WHEREFORE, petitioner prays that the Court grant petitioner relief to which s/he may be entitled in
 11 this proceeding. I verify under penalty of perjury that the foregoing is true and correct.

12
 13 Executed on MARCH, 11th 2008

14 Date



Signature of Petitioner

15
 16
 17
 18
 19
 20 (Rev. 6/02)

2/28/08

To: Dash, Lawrence #F-49769

From: B. Dozier, CCRA

In response to your concerns:

1. You have one enhancement (PC 12022.5) which is being served consecutively with a 4 yr term. It is considered violent & is correctly coded as a credit code 4 offense. See attachment.
2. There is nothing in your paperwork referring to you as a second striker.
3. You have been correctly coded, time credits accounted for correctly & your EPRD is 8/27/2021. Attached also are copies of your LSS & calc sheet.

NOTE!

PLEASE SEND APPLICATION
TO PROCEED:

IN FORMA PAUPERIS

THIS FORM WAS NOT INCLUDED
IN PETITION PACKET SENT ON

FEB-26-2008

THANK YOU

L. E. DASH
F-49769

LEGAL STATUS SUMMARY TYPE- D SQ-RC ** DISCREPANT **11/13/2006 21:45

CDC NUMBER	NAME	ETHNIC	BIRTHDATE
F49769	DASH, LAWRENCE	BLA	04/16/1955

TERM STARTS	MAX REL DATE	MIN REL DATE	MAX ADJ REL DT	MIN ADJ REL DT
11/08/2006	09/05/2013	08/27/2012	09/05/2013	08/27/2012

ASE TERM	3/00 + ENHCMNTS	5/00 = TOT TERM	8/00	PAROLE PERIOD
				3 YRS

PRE-PRISON + POST SENTENCE CREDITS

CASE	P2900-5	P1203-3	P2900-1	CRC-CRED	MH-CRED	P4019	P2931	POST-SENT	TOT
197706	363					54		11	428

PC296 DNA COMPLETED

NOTIFICATION REQUIRED PER PC3058.6

REC'D DT/ COUNTY/	CASE	SENTENCE DATE	CREDIT	OFFENSE
CNT OFF-CODE DESCRIPTION			CODE	DATE

CONTROLLING PRINCIPAL & CONSECUTIVE (INCLUDES ENHANCEMENTS/OFFENSES):

--CONTROLLING CASE --

11/08/2006 SF 197706 10/27/2006

01 P212.5(C) ROBBERY 2ND
(H)WPN

4 10/07/2005

P12022.5(A)

03 USE F'ARM

THIS CHARGE WAS
DROPPED BY STATE COURT

02 P212.5(C) ROBBERY 2ND
PC 2933.1

CS

4 10/08/2005

TRAN	DATE	END DATE	LOG NUMBER	RULE	NUMBER	ASSESS	LOST	REST	DEAD
TYPE									

BEG 11/08/2006

*****BEG BAL*****

CURRENT PC BALANCE:

0

CURRENT BC BALANCE:

374

DEPARTMENT OF CORRECTIONS AND REHABILITATION

STATE OF CALIFORNIA

CALCULATION WORKSHEET

OBIS CREDIT CODES 3,4,OR 6

CDC 1897E (04/00)

CALCULATION WORKSHEET FOR PC SECTION 667(e) AND PC SECTION 2933.1

This form is used to calculate the Earliest Possible Release Date (EPRD) for inmates sentenced as a second-strike offender (PC Sections 667(e) or 1170.12) and violent offenders whose offense date is on or after September 21, 1994. When sentenced as a second-strike offender, the OBIS credit code is 3 (20%). When the offense is a violent offense committed on or after September 21, 1994 the OBIS credit code is 4 (15%), or 6 (15%) if a second strike violent offense.

Section A - Original EPRD Calculation		Section B - Days "C" or "D2" from Start Date through Original EPRD (Do not Include C/D2 Time That Occurs After The Original EPRD)		
1. Start Date:	11/8/2006			
2. Plus Time Imposed	+ 8 YRS 0 MO	From	Thru*	# Days**
	= 11/8/2014			0
3. Minus Pre-Postsentence Credit	- 428			0
	= 9/6/2013			0
4. Minus Vested Credit	- 1			0
[PC 667(e) divide by 2; PC 2933.1 divide by 5.66] (Round Down)	= 9/5/2013	Total Days "C" and/or "D2" From Start Date to Original EPRD:		0
5. Plus Dead Time	+ 0	Equals CDC Conduct Credit not applied while C/D2 (divide total days C/D2 by 4 [PC 667(e)] or 5.66 [PC 2933.1], Round Down)		0
6. Equals Maximum Date	= 9/5/2013	* If the current work group is "C" or "D2" use the original EPRD as the THRU date. If the last day of D2 is earlier than the original EPRD, use the earlier date as the "THRU" date.		
7. Minus Start Date (Line 1)	- 11/8/2006	*** Days Equals "THRU" date minus "FROM" date plus 1 day.		
8. Equals Days to Serve	= 2493			
9. Minus Dead Time	- 0			
10. Equals Days Where Credit May Be Applied	= 2493			
11. Equals CDC Conduct Credit (Divide Line 10 by 5 [PC 667(e)] or 6.66 [PC 2933.1], (Round Down)	= 374			
12. Maximum Date (Line 6)	9/5/2013			
13. Minus CDC Conduct Credit (Line 11)	- 374			
14. Equals Original EPRD:	= 8/27/2012			
		Section C - Credit Losses and Restorations		
		Date of CDC 115	Loss	Restored
				Net Loss
		Net Credit Losses:		0

Section D: Calculating Adjusted EPRD

1. Original EPRD (from Section A, Line 14):	8/27/2012
2. Plus Credit Not Applied While C/D2 (from Section B):	+ 0
3. Plus Net Credit Lost (from Section C):	+ 0
4. Equals Adjusted EPRD (Cannot Exceed Maximum Date)	= 8/27/2012
5. Minus Maximum Date (from Section A, Line 6):	-
6. Equals Excess Credit Loss to Apply to Next Period Being Calculated***	=

***Mixed Credit Codes: When credit lost exceeds credit applied (Adjusted EPRD is later than Maximum Date), subtract the Maximum Date from the Adjusted EPRD which equals the days to apply to the next period being calculated.

CALCULATED BY (Name & Title)

JULIE THOMPSON, CCRA

DATE

2/26/2007

INMATE'S NAME

DASH, LAWRENCE

CDC NUMBER

F49769

LOCATION

FOLSOM

Violent Felony List pursuant to PC Section 667.5(c)

PENAL CODE (PC) SECTION	Begin Date	End Date	CRIME DESCRIPTION
PC 4500	7-1-77		Assault by Life Prisoner with a deadly weapon or instrument
PC 11418(b)(1)	1-1-00		Uses or Directly Employs Against Another Person a Weapon of Mass Destruction in a Form Which May Cause Widespread, Disabling Illness, or Injury to Human Beings. (life)
PC 11418(b)(2)(3)(4) & (c)	1-1-03		Uses or Employs Weapon(s) causing widespread great bodily injury or death of any human being, <u>or</u> Wide Spread damage to food, water, crops, seed, seed stock, or natural resources.
PC 12308	1-1-91		Explode Destructive Devices or Explosive w/intent to Commit Murder
PC 12309	3-8-00		Explode Destructive Devices or Explosive Causing Bodily Injury
PC 12310	8-11-77		Explode Destructive Device or Explosive Which Causes Death, Mayhem, or GBI
Any Felony in which there is a conviction for the following Enhancements is a Violent Felony: (includes STAYED Enhancements)			
PC 12022.5	7-1-77	10-27-06 10-27-04	Use of Firearm (includes all subsections) CHARGE DROPPED BY STATE COURT
PC 12022.53	1-1-98	10-27-06	Use or Discharge of Firearm in Specified Felonies (includes all subsections)
PC 12022.55	1-1-90		Discharging Firearm from Motor Vehicle
PC 12022.7	7-1-77		Inflicting Great Bodily Injury (includes all subsections)
PC 12022.9	1-1-89		Infliction of injury causing termination of pregnancy

- Check for "STAYED" enhancements that could still make the case violent (IM CR 98/41).
- ATTEMPTS, unless specifically listed, are Not included as violent felonies (*People v. Ibarra* [1982] 134 Ca3d413, 425-425).
- CONSPIRACY to commit a violent offense is Not considered violent per Appellate Court Decision, *In re Mitchell* 2000 81 Cal.App.4th 653. (except, conspiracy to commit crimes punishable by life or death per PC 667.5(c)(7)).
- PC 191.5(d) even though this offense carries a "Life" term, Gross Vehicular Manslaughter w/1st Prior is Not considered a violent offense per *People vs. Thomas* (1999) 21 Cal4th 1122.
- Pursuant to PC Section 2933.1, Violent Offenses (see 15 Percent Credit Limitation List) committed on or after 9/21/94 (unless otherwise noted) shall be limited to 15 percent conduct credit (includes stayed "counts"). [For more information, refer to IM CR 99/59]
- Regardless of when the crime itself was added to PC Section 667.5(c), remember to check for enhancements that could still make that offense violent.
- All violent offenses listed, (for which a term is being served) regardless of the date offense was added to PC Section 667.5(c), apply for the purposes of PC Section 3058.6 notifications. However, when the term for the violent offense is STAYED or when the enhancement that makes that offense violent is STAYED, PC Section 3058.6 does not apply. (Refer to IM CR 99/34).
- Contrary to the Serious Felony List where certain conduct can be alleged on an otherwise non-qualifying crime to establish that it is a Serious Felony, Violent Felonies based on weapons or injury require that a specific enhancement has been charged and proved under PC Section 667.5(c)(8); (c)(9); or (c)(17). Remember a "STAYED" enhancement makes that case violent.

Folsom State Prison
P.O. Box 715071
Reprea, CA 95671

ADDRESS TO:
P.O. BOX 715071 Letter, Photos, Stamps only.
P.O. BOX 1790 Money Orders only.
P.O. BOX 950 Legal Mail only.

NAME: LAURENCE E. DASH

CDCR#: F-49769 Bldg/Bed: B2. B2. 06L

LEGAL MAIL



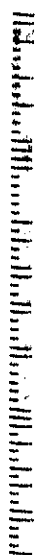
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NORTHERN DISTRICT OF CALIFORNIA
450 GOLDEN GATE AVENUE
SAN FRANCISCO, CALIFORNIA

94102-9680

5410233661 C004



Fsp41-0077